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INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER PERSPECTIVE

VIOLENCE AGAINST WOMEN

Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 1997/44

Addendum

Mission to Pakistan and Afghanistan
(1-13 September 1999)

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Introduction

1. At the invitation of the Governments of Pakistan and Afghanistan, the Special Rapporteur on violence against women, its causes and consequences, visited Pakistan and Afghanistan from 1 to 13 September 1999 to study the issue of violence against Afghan women. In Afghanistan, the Special Rapporteur visited Faizabad on 7 September 1999 and Kabul from 9 to 11 September 1999. She had also requested access to Mazar-e-Sharif, but owing to a misunderstanding it was not possible for the visit to take place. In Pakistan, the Special Rapporteur visited Islamabad, Peshawar, Lahore and her assistant also visited Quetta to meet with Afghan refugees on her behalf.

2. The Special Rapporteur would like to express her appreciation of the cooperation and the assistance extended to her by the Government of Pakistan and the authorities in Kabul and Faizabad.

3. The Special Rapporteur is especially grateful for the efficient cooperation and support provided by Mr. Erick de Mul, United Nations Humanitarian Resident/Coordinator for Afghanistan, and his staff in ensuring a substantively and logistically successful visit. The Special Rapporteur would also like to place on record her appreciation of the assistance given to her by the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF) and the World Food Programme (WFP).

4. During her visit to Pakistan, the Special Rapporteur met with the Minister for Foreign Affairs, the Regional Commissioner for Afghan Refugees, North West Frontier Province, the Taliban Ambassador, and the National Human Rights Commission. The Special Rapporteur also met with representatives of women's organizations, international organizations, and United Nations agencies, and took testimonies from individuals.

5. In Faizabad, Afghanistan, the Special Rapporteur had meetings with the Acting Governor of Badakhshan Province, the Representative of the President, Mr. Tarik Amin, non-governmental organizations and individuals. The Special Rapporteur also visited a school, an orphanage and a hospital.

6. The Special Rapporteur, together with the Special Rapporteur on the situation of human rights in Afghanistan, Mr. Kamal Hossain, visited Kabul from 9 to 12 September 1999 and met representatives of the Taliban authorities, members of the press, humanitarian agencies, non-governmental organizations and individuals. The Special Rapporteur visited a few villages, including the village of Dashtak in the Charasiab district of Logar province, where 50 families had returned after more than 20 years in refugee camps in Pakistan. The Taliban authorities also arranged for visits to the Rabia Balkhi hospital, a rural health project for women, a primary school for girls and a camp for internally displaced persons.

7. The Special Rapporteur would like to express her heartfelt thanks to all the women who agreed to tell their very personal stories to her so that she could attempt to understand the suffering which they had endured. The Special Rapporteur would also like to thank the organizations which facilitated meetings with Afghan women survivors of violence.

I. GENERAL FINDINGS

8. In the area of academic research, writing and discourse, significant information and documentation exists on the historical situation of women in Afghanistan and the violations of their rights during the many years of conflict in the territory (see previous reports of the Special Rapporteur on the situation of human rights in Afghanistan to the Commission on Human Rights and the General Assembly, and of the Secretary-General to the Security Council and the Sub-Commission), therefore this report will not contain a detailed historical analysis for lack of space, but will instead concentrate on the findings of the Special Rapporteur at the time of her visit in September 1999.

9. At the time of the Special Rapporteur's visit the civil war and political instability in Afghanistan continued unabated. The Taliban (a Pashtun dominated conservative Islamic movement) controlled the majority of the country, including Kabul, the capital city. The Taliban movement is seen by many as a product of the conflict that originated in the 1978 socialist coup, the subsequent Soviet invasion, the continued fighting and resistance leaders who failed to unite and form a stable government. In 1997, the Taliban changed the name of the country to the Islamic Emirate of Afghanistan and appointed Mullah Omar as Head of State. There is a six-member ruling council in Kabul, but ultimate authority for Taliban rule is with Mullah Omar and the Taliban's inner shura (council), located in Kandahar. The Northern Alliance headed by President Rabbani and his military commander Ahmad Shah Masood continues to control some territory in the north-east.

10. There is said to be no constitution, rule of law or independent judiciary. The Taliban's Islamic courts and religious police enforce their own interpretation of Islamic law and punishments, often following swift summary trials. The religious police reportedly impose immediate punishment for violations of Taliban edicts. Judicial procedures are said to vary, depending on the region and the local commanders. With no functioning nationwide judicial system, many municipal and provincial authorities rely on their own interpretation of shariah law and traditional tribal codes of justice. Several provincial administrations maintain limited functions, but civil institutions are largely non-existent. The Gender Disparity Index, a composite index based on measurement of female life expectancy, educational attainment and income, ranks Afghanistan in the lowest position of any country in the world (UNDP, Human Development Report 1995).

11. This chapter includes information gathered by the Special Rapporteur during her visit in relation to different types of violence against women; this information is not exhaustive, but is indicative of the situation of Afghan women in Afghanistan and Pakistan.

12. The Taliban authorities reiterated their commitment to the international human rights instruments that Afghanistan has signed. This was confirmed at a meeting with officials of the Taliban Ministry for Foreign Affairs. Afghanistan is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, and has signed, but not ratified, the Convention

on the Elimination of All Forms of Discrimination against Women. The Taliban authorities in Afghanistan are therefore not only accountable under customary international law provisions on human rights, but also by the specific clauses in the above conventions relating to the rights of women.

13. The Special Rapporteur found official, widespread and systematic violation of the human rights of women in Taliban controlled areas of Afghanistan. Most countries of the world appear to tolerate some practices that discriminate against women, but in only some countries is discrimination official policy. In Taliban controlled areas of Afghanistan, discrimination against women is officially sanctioned and pervades every aspect of the lives of women. They are subject to grave indignities in the areas of physical security and the rights to education, health, freedom of movement and freedom of association. The Special Rapporteur also heard allegations of the clandestine trafficking of women and of the mistreatment of women from minority communities.

14. As the result of pressure from the international community and the local population, certain minor changes have taken place since 1997. The Taliban Ministry of Education informed the Special Rapporteur that there are now primary schools for girls aged 6 to 10, run by the Ministry of Religious Affairs. However, there was a refusal to state that there would be secondary and tertiary education for women. There was also no explanation why the schools for girls were run by the Ministry of Religious Affairs and not the Ministry of Education. The Special Rapporteur visited one such school located in a mosque where the students were chanting verses from the Koran. The textbooks included sections on very elementary Mathematics and Science, but the illustrations for these books included torpedoes and guns - indicating a certain acceptance of the culture of war even at the primary school level.

15. Another minor change is that women may now work in the health sector. Women doctors and nurses may now work in hospitals catering for women. There is a nursing school for women and some classes are being given to train women doctors. However one wonders how another generation of women doctors can emerge without secondary or tertiary education. The Special Rapporteur was also told of an edict allowing needy widows to work in the social service and health sectors.

16. Despite the official edicts that discriminate against women and the presence of Taliban religious police that monitor compliance with these edicts, there is a diversity of practice in the countryside outside of Kabul. Women in the villages the Special Rapporteur visited did not wear the burqa, working in the fields wearing a shawl. A male relative did not accompany the women and they spoke openly about the need for education for their daughters. In Kabul, home based schools were being run for women in defiance of Taliban edicts. Not one Afghan woman with whom the Special Rapporteur spoke, either in Afghanistan or Pakistan, approved of Taliban policy towards women. They were of the opinion that this was not Islam. Though some women welcomed the semblance of security in the areas controlled by the Taliban, none of the women felt that the discrimination in the Taliban edicts was justified. On the contrary, they were full of complaints and negative anecdotes.

17. The situation of Afghan refugee and internally displaced women deeply concerned the Special Rapporteur. During her visit, there was fighting in the Shomali valley between the

forces of the Taliban and the Rabbani government. The Special Rapporteur was given full access to internally displaced women from the Shomali valley at the compound of the former Russian Embassy in Kabul. She also met recent refugees from the Shomali valley in Peshawar. They spoke of a strategy of war that violates international humanitarian law and practice. The men who lived in the Shomali villages were arrested and taken away to unknown locations. Women and children were separated from the men and put into trucks. They were first taken to Jalalabad, but after some protest they were brought to Kabul. Seventy per cent of the internally displaced at the Russian Embassy compound were women and children. The World Food Programme gave them a corn soya blend (CSB) food substitute and the Taliban provided them with bread for the day. There was no soap, water or other such sanitary facilities and only transport to health institutions in emergency cases. The vast majority of the displaced women were concerned about the whereabouts of their husbands, brothers and sons. In addition, they spoke of all their houses being burnt to the ground and their agricultural lands being destroyed. They could not return to their homes and were forcibly displaced.

18. The Special Rapporteur also visited the area controlled by the Rabbani government in Faizabad. Before her visit, she had received reports that the worst period of violence against women during wartime in Afghanistan was when the Rabbani government controlled Kabul. During her visit, she was shown schools where girls studied up to the university level. She was also shown health facilities for women in the Faizabad hospital. Although the conditions were substandard in terms of infrastructure, there did not appear to be discrimination in the areas of education and health. However, the Special Rapporteur reminded the representatives of the Rabbani government that it was their government that first introduced a very strict rendering of law that denied women their rights. She was reassured that if the Rabbani government were to return to power in Kabul it would ensure that its laws were in conformity with its international obligations, especially the Convention on the Elimination of all Forms of Discrimination against Women.

19. The official, widespread and systematic discrimination against women is made worse by the conditions of poverty and war. As long as the war continues, women will continue to be displaced and in addition many of the justifications for not allowing women rights would remain in place. The Special Rapporteur visited some of the poorer villages around Kabul. She was deeply concerned by what she saw. In one village, health facilities were a five-hour walk from the village. There was only one very small well for the whole village. There were no schools, no jobs and the dryness of the land and war devastation had made the land unsuitable for agriculture. Women eked out an earning from the skills they had learnt when some of them were refugees in Pakistan. The children appeared malnourished and had skin rashes associated with unhealthy living conditions. The conditions of these women and children are unlikely to improve until peace and a minimal level of prosperity return to Afghanistan.

II. SPECIFIC FINDINGS

A. Physical security

20. Physical security remains a central concern for women in Afghanistan. The armed conflict still results in a great deal of physical abuse. The worst period for sexual assault was when there was civil war in Kabul. In recent years, security has improved in Kabul and the

Special Rapporteur did not receive any allegations of war-related sexual assault in the Taliban controlled areas. However there appears to be continuous assault and abuse on the front-lines. The Special Rapporteur received several reports of sexual assault and abuse by "Non-Afghan Taliban", especially in the Shomali valley, but was unable to verify the reports because of the situation in the area.

21. In urban areas, particularly in cities such as Kabul, Herat and Mazar, though war-related physical abuse has decreased, the female population is still under threat from the official apparatus dealing with violations of edicts enunciated by the Taliban Ministry for the Propagation of Virtue and the Suppression of Vice. Members of the Ministry assault women who violate these edicts with instruments that look like leather cricket bats. (The religious police allegedly specifically hit women on private parts of the body, for example the breasts, in the knowledge that women are less likely to show the bruising, even to family members.) This is done on the spot without a right to be heard or any due process. Women told the Special Rapporteur many stories of how they had been beaten for allowing their ankles to show, for being without a male relative, for laughing loudly, for wearing the wrong type of burqa, etc. There was also a belief among the women that educated women were singled out for humiliating treatment. The arbitrary nature of these beatings raises serious questions of human rights and goes to the heart of women's physical security and well-being.

22. In addition to arbitrary public beatings on the street, women who violate the Hudood Ordinance with regard to questions of morality, including adultery and fornication, are publicly lashed at the stadium in front of large crowds. These spectacles reportedly take place every Friday. This cruel and inhuman punishment continues to be applied. Officials of the Taliban Ministry of Justice were adamant that these punishments will continue. The ease with which women are punished for adultery and fornication contrasts with the difficulty that women have in proving rape when it occurs. They need the testimony of four witnesses in addition to the normal evidentiary requirements. If they fail to prove rape in a context where sexual intercourse has taken place, they, the victims, may end up being flogged for fornication or adultery. Given that there have been enormous developments in law at both the international and national level to protect women victims of rape, the structure of rape laws in Afghanistan raise serious questions regarding the violation of women's human rights.

B. Right to education

23. When the Taliban first took control of Kabul, they announced that there would be no schooling for girl children until peace arrived. In recent months, owing to the enormous pressure of the international community and the growing demand from the local population, there are now some schools for girl children between the ages of 6 and 10. The Ministry of Religious Affairs runs these schools. The main component of their studies is the Koran, but there are also textbooks that deal with Mathematics, Science and Social Science at a very elementary level. The Special Rapporteur was told that more primary schools for girls would be opened once the war effort was over.

24. On three occasions, the Special Rapporteur asked officials of the Taliban Ministry of Education whether secondary and tertiary education would be available for girl children. On all three occasions, the officials refused to answer the question. At present, there are no schools

offering secondary or tertiary education for girl children. The only non-primary education available is training for nurses. The Special Rapporteur was told that female doctors were being trained. However, without secondary education that would be a very difficult task.

25. The Taliban's lack of official commitment to educating girl children is a violation of international law and Afghanistan's commitments under the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child. This serious allegation was confirmed by the Special Rapporteur's meeting with Taliban officials. Unless these attitudes and policies change, the Taliban controlled areas of Afghanistan will remain in serious breach of Afghanistan's international obligations.

C. Right to health

26. The World Health Organization (WHO) has defined health as a "complete state of physical, mental and social well-being". Statistics provided by United Nations organizations indicate that the maternal mortality rate in Afghanistan may be one of the highest in the world. When the Taliban authorities first came to power they banned female health workers and said that if women were to be treated by a male physician, a male relative must accompany them and only the affected part should be exposed. These were edicts of the Ministry for the Propagation of Virtue and the Suppression of Vice. In addition, a ramshackle old hospital was designated as the only hospital for women. It did not have the necessary infrastructure or sanitation. The international community and the local population of women reacted to these edicts and some changes have taken place. There are now women's wards in several hospitals, male physicians can treat women patients and female health workers and nurses are being trained. It is claimed that female doctors are also being trained but without secondary and tertiary education for girls, one wonders how that is possible. Despite these minor changes, women's right to health is seriously affected. They are discriminated against in the services provided - the women's hospital the Special Rapporteur visited (Rabia Balkhi Women's Hospital, Kabul) did not have even the minimum infrastructure, except for an X-ray machine; the limited health resources that do exist are pumped into the male hospitals. Although the hospital visited was clean and well run, the lack of facilities was extremely apparent. In addition, water supply and electricity supply were scant because of the location of the hospital.

27. Another aspect of the right to health that seriously disturbed the Special Rapporteur was the problem of mental health. Physicians for Human Rights in their 1998 report The Taliban's War on Women; Health and Human Rights Crisis in Afghanistan claimed that 94 per cent of the Afghan women they interviewed in Kabul were "depressed". This finding was confirmed by women doctors in Kabul, who felt that the figure may be even higher. The Taliban edicts that confine women to the home, combined with the realities of war, have made living a difficult and depressing survival for women. All the women interviewed were convinced that there was some truth in the Physicians for Human Rights finding. Although this has to be investigated further, the high proportion of mental illness among women in Kabul is of serious concern and should be addressed by the authorities, as well as by the international community.

D. Right to Employment

28. Taliban edicts ban women from working except in the health and social service sectors. This edict has brought untold hardship to women in Afghanistan. The war has created a large number of widows. The inability of these widows to work has caused enormous social problems. In 1999 the Taliban authorities issued an edict allowing needy widows with no other means of support to seek employment. The Special Rapporteur was told that women could work in the health and social service sectors, but the opportunities in these sectors were extremely limited. Growing destitution is evident among an increasing proportion of urban families. Women have taken to begging on the streets and during her stay in Kabul the Special Rapporteur saw ample evidence of this. In addition, she was told that there had been a dramatic increase in prostitution. Although that allegation could not be verified, owing to the refusal of officials even to contemplate the subject, women living in Kabul told the Special Rapporteur that they had heard of many cases.

29. The denial of education to women comes in a context where in Kabul before the Taliban came to power women were gainfully employed. Women were doctors and engineers and equal partners in the civil service; women professionals played an important part in every aspect of society. The sudden prohibition on women working has made many of them extremely bitter and depressed. There was a feeling among educated women that they had been singled out for oppression by the Taliban and that the Taliban were harshest in their treatment of educated women in Kabul. All the educated women whom the Special Rapporteur met expressed extreme unhappiness at now being confined to the home. They cannot work and even at home they cannot enjoy music or leisure. There is just nothing to do except household chores. The Special Rapporteur is deeply concerned about their future.

E. Freedom of Movement

30. The most evident right that has been violated for women is freedom of movement. Women are confined to the home. If they leave the house, they must wear a burqa and they must be accompanied by a male relative. They cannot loiter and should have a definite location to go to. The religious police ask all these questions if they choose to question a woman. Women cannot take taxis except with a male relative and they cannot go to hotels and other public places of entertainment. Their personal life is deeply affected, as is their social life. In other countries, solitary confinement is a serious punishment. In Afghanistan, women appear to be subject to similar measures as a matter of course. The high rates of depression indicate the health fall-out of these policies. Non-compliance with these edicts results in being lashed by the religious police with an instrument that looks like a leather cricket bat. In the rural areas, women seemed to flout all these edicts, since there the Taliban writ is applied less effectively. Women were working in the fields in shawls and not in burqas and the Special Rapporteur saw many women walking about unaccompanied by male relatives. In Kabul, however, the edicts are more strictly enforced.

F. Freedom of Association

31. As a result of their lack of freedom of movement, women are also denied freedom of association. There are no social activities for women, not even religious social activities.

Women have no access to sports or leisure. They have no right to form political or community groupings. There is, fundamentally, no civil society in Afghanistan and women are denied civil or political rights. They cannot associate in large groups or engage in group activities by themselves or with men. The resulting lack of communal solidarity is another reason why women appear to suffer such high rates of mental health problems.

G. Rights of Minority women

32. The Special Rapporteur heard many stories of discrimination against minority women, including Hazara and Tajik inhabitants of Hazarajat and the Shomali area. Reliable reports were received that individuals were targeted because of their ethnic group and suspected sympathy with the opponents of the Taliban.

33. During the fighting in the Shomali valley, women from ethnic minorities were forcibly deported from the area. They were put into cars, jeeps and trucks and made to leave their homes. The Special Rapporteur met many of these women in the Russian Embassy compound in Kabul, as well as many other women refugees in Peshawar and Quetta. Deportation violates international laws of war and is considered to be both a war crime and a crime against humanity.

34. Reports have been received of the abduction of Hazara girls from villages. Following their abduction, they are said to be forced into marriages with men from Pashtun tribes. In 1998, women were reportedly abducted in Mazar-i-Sharif for forced marriages. Some believed that this practice is officially sanctioned; others were of the opinion that such violations were committed by the "Non-Afghan Talibans" and were contrary to Taliban rules.

H. Trafficking and Prostitution

35. Allegations of prostitution and trafficking were conveyed to the Special Rapporteur in very hushed tones. It is an extremely taboo subject. In Peshawar, the Rapporteur was told that the camps had been raided a few times and women taken away for prostitution. She was also told about certain streets in Peshawar where prostitution and trafficking took place, and was given information about Afghan women being trafficked to the Middle East. In Kabul, she was also told that there had been an increase in prostitution due to the destitution of widows and that certain houses in Kabul were known for these activities. Since the issue was considered to be so taboo, there was little frank discussion with officials. The humanitarian agencies either did not know about such activities or said that they had heard allegations but had been unable to confirm them. As a result, the Special Rapporteur was unable to verify the nature and extent of these activities.

I. Ministry for the Propagation of Virtue and the Suppression of Vice

36. The Ministry for the Propagation of Virtue and the Suppression of Vice, which comes under the Ministry of Religious Affairs, is the single most important ministry of the Taliban authorities affecting the lives of women. Though general policy on women flows from the high command, this Department is responsible for many of the edicts that make women's lives in

Afghanistan a misery. The Special Rapporteur is absolutely certain that any future policy towards Afghanistan that is aimed at ensuring minimum compliance with human rights must demand the dismantling of this institution.

37. Harsh punishments are carried out under the sharia law for transgressing social mores, including stoning for adultery. Afghans told the Special Rapporteur that it was the first time in Afghan history that women had been flogged in public, a practice which had always been considered taboo owing to the great respect in which women have been held in Afghan society.

38. The Special Rapporteur received information concerning the arbitrary detention of women in Taliban operated women's prisons. There are reportedly several prisons where hundreds of women are arbitrarily detained in very poor conditions. In Kandahar province, a women's prison in Karez Bazaar is said to hold more than 400 women. In Nezarat Khan prison one women is detained who was allegedly arrested for speaking to a man in the street. The Special Rapporteur was unable to investigate the reports during her visit, however the allegations merit further study in order to gain a comprehensive picture of the situation of Afghan women.

J. The War and Islam

39. Whenever the Special Rapporteur raised issues with regard to human rights in Afghanistan with Taliban officials, she was given either one of two justifications. The first was the argument that the war must be over before systematic planning of policy can begin. This was said in particular with regard to primary education for girl children. The second justification was that the Taliban edicts were Islam and that human rights did not take into consideration Islamic thought and values. The Special Rapporteur is convinced after her conversations with many Islamic scholars that the Taliban edicts are not Islam but the Taliban's version of Islam. Not one other Islamic country has issued edicts such as those of the Taliban relating to the education and health of women. This proves that Islam does not oppose the rights of women. Many Islamic scholars have shown how Islam actually enhances human rights and that edicts such as those of the Taliban are not in the spirit of the Koran. The Special Rapporteur on human rights in Afghanistan, who is a Muslim and who went on the joint mission with the Special Rapporteur on violence against women, entered into a dialogue with the Taliban and argued forcefully and convincingly that Islam has many schools and that human rights are extremely compatible with a humanist view of Islam.

III. AFGHAN REFUGEES IN PAKISTAN

40. Afghans constitute the largest refugee population in the world, with over 3 million people scattered around the globe. The sheer numbers of Afghans who have sought refuge abroad - an estimated 1.4 million in Iran and 1.2 million in Pakistan - as well as a large internally displaced population which is continually on the move to avoid the conflict, speaks volumes of the tragedy affecting Afghanistan. The combination of conflict and extreme repression has forced families to abandon their homes. Afghanistan's neighbours have shown varying levels of support for refugees over the years. It is alleged by some that their lack of neutrality has prevented them from properly addressing the refugee crisis, which has resulted in the forced repatriation of refugees as was seen earlier this year with mass forced repatriation of refugees, from Iran.

41. Although not a signatory to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol thereto, the Government of Pakistan accepted all Afghans fleeing the Soviet invasion prima facie as refugees. This position was formalized in the Handbook on Afghan Refugees Management issued by the Government of Pakistan in 1981. The Handbook explicitly states that Afghan nationals are granted temporary asylum on humanitarian grounds, as well as for reasons of cultural, ethnic and religious affinity between the two countries. The asylum policy in theory allows Afghan refugees free movement and access to gainful employment. However, the deterioration of the economy in Pakistan and the rise in unemployment in recent years has created a hostile environment for the Afghan refugee community. There has been a crescendo of demands, mostly from the business sections of the population for all Afghans to be repatriated.

42. Estimates of the Afghan refugee population in Pakistan include only those residing in refugee villages; unregistered Afghans living outside the refugee villages are excluded from all Pakistan statistics. This is deceptive as the majority of new arrivals are said to have migrated to the cities. The refugees in Quetta city and Peshawar are currently receiving almost no humanitarian, health, education or income generation assistance. UNHCR should be given the necessary resources to document the new arrivals and assist all refugees, regardless of whether they are in the refugee villages or the cities. The majority of new arrivals are Hazara and Tajik. The ethnic minorities tend to migrate towards the cities rather than the refugee villages, because the latter are mainly dominated by Pastun and Taliban influences. At the time of the Special Rapporteur's visit the weather was turning colder and more refugee flows to Quetta city where expected from Bamiyan.

43. The Guardians, an Afghan non-governmental organization established in 1993, and an implementing partner in the Afghanistan PEACE initiative, had been providing UNHCR with emergency assistance for refugee arrivals from Bamyan Hazarajat, in Quetta city.

44. The Special Rapporteur is concerned about the rise in violence against women among the refugee population, including child abuse, prostitution and trafficking. A local newspaper in Peshawar reported that two Afghan girls were being sold by their parents to Arab men when they were arrested at the airport. Trafficking in women and girls is thought to be on the increase. Further, prostitution of Afghan refugee women and children is also growing, because of the lack of economic opportunities. Such are the numbers of Afghan women involved in prostitution that Afghan women are frequently harassed by Pakistanis calling them "prostitutes".

45. The case of N (aged 12) is an example of the current vulnerability of girl children and the need for a safe house for survivors of violence. When N's mother married a mujahadeen commander, after her natural father's death, N went to stay with her grandmother. She was approached by a beggar woman who took her to Pakistan. N worked for her for two months in prostitution, after which she was sold to a Punjabi man. She managed to escape, but is still in a vulnerable position without a family to look after her. The local Afghan community who are sympathetic to her situation are too afraid to take her into their homes for fear that her involvement in prostitution will bring stigma and shame on their family. Women's organizations stressed to the Special Rapporteur the need for a safe house for such cases. Human rights workers are under threat themselves and feel that the United Nations should take responsibility for setting up a shelter.

46. Domestic violence, incest and honour killings are reportedly commonplace in the refugee camps. As the situation has become more tense with increased unemployment, the number of fatalities in domestic disputes has increased.

47. Responsibility for Afghan refugees in Pakistan is shared between the Government of Pakistan and UNHCR; each region of Pakistan has a Regional Commissioner for Refugees appointed by the Government. New arrivals receive individual assistance, food and shelter; thereafter, the programme is community based including education, health care and services. Health care, education and water is provided by non-governmental implementing partners who are required to report on women and child rights.

Akora Khattak refugee village, Peshawar, North West Frontier Province

48. UNHCR arranged for the Special Rapporteur to visit Akora Khattak refugee village, in North West Frontier Province. The refugee village was created in February 1997 and has a population of approximately 2,812 families, belonging to a mixture of ethnic groups. The refugees are from Parwan, Kabul, Mazar-i-Sharif and other northern provinces. At the time of her visit there were new arrivals from the Shomali valley. Female and male animators (Afghan social workers) are chosen from the refugee population to work with the District Co-ordinator to facilitate the needs of the refugees in the camp.

49. The Special Rapporteur noticed that the camp population were clearly afraid and suspicious of some of the Pakistani authorities. They approached the Special Rapporteur and her assistants and said they could not speak freely if Pakistani UNHCR officials and the Pakistani camp security staff were present. The Special Rapporteur recommends that UNHCR employ Afghan staff to work with the refugees as social trainers and translators, so the camp population will be able to approach them without concern for their security.

50. The Special Rapporteur is very concerned that all refugees complained of a grave shortage of food, which is the most basic of requirements. The foodstuffs which the refugees normally receive (flour, oil and wheat) had not been delivered for a period of weeks. New arrivals from the Shomali valley, however, were provided with daily portions from the food kitchen of what appeared to be a wholesome mixture of brown rice, lentils and spices.

51. The Special Rapporteur found that the lack of employment for men and women, apart from a few lucky ones, has led to economic desperation, drug addiction and depression amongst the Afghan refugee community. On a positive note, a number of educated women have found work in the camps as teachers and medical staff and have benefited from being the main breadwinner in the family. In fact, the Special Rapporteur noted that a small number of women seem to have empowered themselves and taken control of their lives.

52. Doctors at the Mothers and Children Clinic in the camp, informed the Special Rapporteur that many of the patients they treated suffered from malnutrition, and TB was rampant. The Special Rapporteur was struck by the skin rashes and communicable diseases that seemed apparent in the camp population. The medical staff expressed the need for a 24-hour clinic with better facilities and a greater selection of medicines. The doctors wrote prescriptions, but the patients had to go to the bazaar to buy the medicines as the clinic only stocked vitamins and

pain-killers. The doctors had requested medical supplies from the donors who founded the clinic, but doubted that they would receive the necessary supplies, because of donor fatigue. The clinic lacked the necessary medical facilities and instruments. The Special Rapporteur was later informed by UNHCR that an emergency 24-hour clinic was planned for September 1999. More resources are desperately needed for health services. Given the numbers of new arrivals in the cities, the introduction of mobile health units should be considered in order to provide the most basic health care to all refugees.

53. The Special Rapporteur was struck by the extremely poor choice of location for the refugee village, in terms of the distance to the nearest settlement and, particularly, the infertile and arid land. The Government of Pakistan had clearly chosen the least productive and desirable land to accommodate the refugees. Unfortunately, this has made the refugees completely dependent on humanitarian aid, since they cannot grow their own vegetables or trade in a local town.

The Saranan refugee village, Quetta, Baluchistan

54. The Saranan refugee village, established in 1989, is situated 106 km from Quetta and accommodates 3,100 families. Violence against women and girls is of growing concern in this refugee village. The Special Rapporteur received information about the case of a 14-year-old girl who was raped and went to the bazaar for an abortion. Sexual abuse is said to be a particular problem in Surkhab, G. Minera and Pir Alizi refugee villages.

55. According to UNHCR statistics, there are 4 female committees, 2 girls schools (up to grade 5), 2 mixed schools, 12 girls home based schools, 7 non-formal education centres (adult literacy) and 4 groups that guarantee lending (12 women in each) in the camp.

56. In 1995, UNHCR started a community development programme, which was partly financed through a fee collection system. In 1997, a female committees pilot project commenced. Refugees receive training in agriculture and community health work, including reproductive health.

57. Three years ago home based schools were started in the refugee villages, providing education for girls up to grade 5. The Special Rapporteur's assistant visited a home based school where 16 girls were studying (grade 3) Pashto, Mathematics, drawing and the Koran for three hours, five days a week. Families who allow their girl children to go to school receive 5 kg of edible oil every two months as an incentive. There is also a non-formal education centre for adults.

58. The group guarantee lending programme provides loans to women which they pay back in four instalments. At the time of the visit, 48 women were receiving loans in the Saranan village. The women use the loans to continue with their particular trade, be it spinning wool, making carpets or working as tailors.

59. A UNHCR human rights programme was scheduled to start at the end of October 1999, initially for health staff and schoolteachers. In the second phase human rights training is planned for home based school teachers and tribal leaders.

60. Rather than living in the refugee camps which spread out into the desert along the border with Afghanistan, the majority of new refugees arriving in Quetta remain in the city, where the resident Hazara population tries to assist them to survive. A group of new arrivals from Bamyan testified that they had left their homes three months earlier and had lived in the mountains for two and a half months before travelling to Quetta when the weather started to deteriorate in the mountains. They had lost children along the way and the children who had survived looked severely malnourished and in need of special medical attention. The refugees testified that they had left their homes and escaped into the mountains because of the fighting. Survivors' testimonies consistently indicate that the Taliban burnt their houses, men were arrested and killed, and women were taken away and their whereabouts remain unknown.

61. Humanitarian aid agencies are providing primary education, but secondary and higher education are desperately needed. The female Afghan University in Peshawar was closed after being open only for a few months. This is particularly disappointing as Pakistan does not have university places for Afghans. Concern is growing about the consequences for the future of Afghanistan of an uneducated generation, and about the lack of intellectuals, doctors and other professionals. The educated Afghan elite in exile are attempting to provide an education for the next generation. For example, there is an Afghan run school for 600 girls (1-11 grades) in Quetta city, funded by Oxfam (United Kingdom) and a Swiss donor. At the time of the Special Rapporteur's visit five university lecturers from Mazar and Kabul were planning to open an Institute of Science. 35 boys and 6 girls had indicated their interest. Approximately US$ 500 per month was required to get the initiative off the ground, as the lecturers were willing to work without payment. The Special Rapporteur would encourage international organizations to provide funds for the recruitment of teachers, for the expansion of facilities to accommodate more students and for the purchase of necessary school materials.

62. At the fifth meeting of the Afghanistan Support Group, held on 21 and 22 June 1999 in Stockholm, UNHCR emphasized the difficulties it was encountering in fulfilling its mandate in the light of the prevailing security restrictions on international staff and the severe funding shortfall it was facing for the largest refugee population in the world. (In 1999, UNHCR Pakistan has had to provide a minimum level of services for more than a million refugees on an annual budget of US$ 7.8 million.) Particular attention was drawn to the needs of returning refugees belonging to minority groups, such as Tajiks, Uzbeks, Turkmens and Hazaras. Initiatives to support innovative programmes addressing the needs of women were welcomed. It was noted that providing support to returnee and resident communities could contribute to confidence and peace-building at the local level. The meeting noted that while it was incumbent upon the Governments hosting refugees to ensure their protection, the support of UNHCR to reinforce and monitor the protection regime was of the utmost importance.

63. Although the years of conflict have discouraged many refugees from returning to their country, some are willing to return. UNHCR initiated a group repatriation programme for Afghan refugees in Pakistan in September 1997. In 1998, 18,000 returned, and in 1999, 15,000. The group repatriation programme had to be suspended at the end of 1998, for lack of funds. UNHCR received a donation at the end of the summer of 1999, with the winter approaching, however, it will not be possible to recommence repatriation until the spring of 2000.

64. The objective of the group repatriation programme is to implement better targeted assistance projects inside Afghanistan which will ensure the refugees' successful reintegration and sustained return. A main component of this approach is to maintain the link between those who have been repatriated and the rest of the community still residing in Pakistan, the aim being that refugees who have stayed behind may be convinced to repatriate.

65. Non-governmental organizations have alleged that UNHCR is pushing repatriation, even over returnees' security. The Special Rapporteur was concerned, but unable to verify the allegation. Many refugees will not consider returning until their girl children can go to school and the women can work.

66. UNHCR have a "women at risk resettlement programme" aimed at providing assistance to those at extreme risk. The programme is specifically for women activists affiliated to political organizations and opposed to Taliban policies who face serious threats to their lives, and women who, owing to their particular profile, have been rejected by their own refugee community, for example women heads of households. UNHCR told the Special Rapporteur that the initiative is proving difficult to implement as suddenly everyone is claiming that they fit the necessary criteria.

67. Non-governmental organizations have criticized the interpretation of the criteria as being too strict. Each woman must prove why she is individually at risk. They are concerned that vulnerability because of the combination of the Taliban's ethnic and gender persecution and economic vulnerability because of the lack of professional and educational abilities for women are not viewed as adequate risk factors.

68. Resettlement countries have responded positively to the programme. However the often lengthy resettlement procedure needs to be adapted to the urgent need for protection of the women at risk.

IV. HUMAN RIGHTS DEFENDERS AND NON-GOVERNMENTAL ORGANIZATIONS

69. Human rights defenders in Afghanistan and Pakistan continue to receive death threats and to be subjected to harassment in relation to their work to raise awareness about human rights and the plight of the Afghan people. The majority of Afghan non-governmental organizations are now based in Pakistan as it gradually became impossible to work in Afghanistan under the extremely repressive circumstances that appear to exist there.

70. In Pakistan, human rights defenders reportedly do not receive protection from the local authorities and are at risk because of their activities in support of peace and human rights in Afghanistan. The Taliban have allegedly been quoted as saying that their country's laws are applicable to Afghans irrespective of where they live. The Pakistani authorities do not seem to have effective or adequate measures in place to protect Afghan human rights defenders, nor do they investigate past attacks. The Special Rapporteur recommends that the Government of Pakistan urgently provide efficient and adequate protection and ensure that Afghans in Pakistan do not become the target of death threats or assassination attempts. Furthermore, the Pakistani police are accused of regularly stopping Afghan refugees for extortion purposes.

71. Non-governmental organizations are concerned about what they call the "Talibanization" of Pakistan. The participation of young Pakistani boys in the Taliban effort and the setting up of ideologically similar groups in Pakistan has raised concern about the effect of these changes on the women of Pakistan. All the women's groups in Pakistan with which the Special Rapporteur met expressed this concern.

72. As the situation deteriorates, Afghan human rights defenders based in Pakistan are leaving for Europe and the United States of America, because of direct intimidation, pressure and the lack of options for their children. This brain drain has devastatingly weakened civil society, making it increasingly difficult to monitor the human rights situation adequately. Nevertheless, a number of Afghan non-governmental organizations are still courageously working to bring the Afghan people's plight to the attention of the international community. The Special Rapporteur met representatives of various Afghan non-governmental organizations, all of whom were extremely dedicated to their work. The following are just some examples.

73. The Cooperation Centre for Afghanistan (CCA) an Afghan non-governmental organization based in Peshawar, monitors and documents the human rights situation from several offices within Afghanistan and holds seminars on human rights issues, including a course on "Women's rights, gender awareness and Islam". The Special Rapporteur strongly supports the work of this organization and calls on the international community to support it.

74. One important initiative of the Afghan Women's Network (AWN) is its collection of cases of violence against women as refugees and war victims. It has published material in Dari and English to let the world know about the reality of life for Afghan women and has documented a host of common problems such as the lack of basic education, health care, security, employment, skills, shelter, legal identity and legal access.

75. The Revolutionary Afghan Women's Association (RAWA), with an estimated 2,000 members in Afghanistan and Pakistan, advocates that women should play a full role in the political life of Afghanistan and have the same access as men to education and employment. RAWA works on women's rights issues and with survivors of violence.

76. The Afghan Women's Council (AWC) is a non-governmental organization which works to secure the civil and social rights of women based on Islamic principles and the culture and traditions of Afghanistan. It publishes a monthly paper Zan-e-Afghan with the aim of mobilizing Afghan women to seek peace and stability, and of uniting women to defend their rights.

77. The majority of the international organizations working in Afghanistan focus on the provision of humanitarian assistance in the areas of rehabilitation, health, education and agriculture. A number of them, including the Swedish Committee for Afghanistan, are involved in the provision of alternatives to formal education for girls. They are working in various regions and they hold that certain local authorities are easier to work with than others, allowing an opportunity for dialogue and negotiation in regard to permission and authorization. According to their estimates, 20 per cent of the 136,000 students currently receiving education are girls.

V. UNITED NATIONS SYSTEM AND THE INTERNATIONAL COMMUNITY

78. The international community has been faced with many dilemmas in seeking to provide assistance to the Afghan people in a difficult political and human rights context. Its attempts to engage in dialogue in the hope that policies that are consistent with international norms can be negotiated have been further complicated by a movement which contains some who are willing to negotiate and others who are defensive about what they perceive to be the threat from the West to Afghanistan's religious tradition and, particularly, about the erosion and undermining of indigenous culture. The international community is faced with the problem of how to report on human rights abuses of greater or lesser severity on the one hand and to negotiate access to the population to meet humanitarian needs on the other. The potential to reduce human rights abuses through negotiations relating to programme concerns must be balanced with the possibility that through the provision of resources and assistance the international community is potentially condoning the abuses by providing assistance despite human rights concerns.

79. The Special Rapporteur was appraised of the Strategic Framework for Afghanistan to strengthen the effectiveness of the international presence by ensuring that agencies providing assistance work together. The Strategic Framework comprises a political strategy and arrangements for Principled Common Programming designed to help ensure that the strategies and approaches pursued do not contribute, however inadvertently or indirectly, to the suffering of Afghans and maximize the protection and well-being of endangered communities. The United Nations gender focal point planned to capitalize on the existing common programming structure to ensure a higher degree of responsiveness to gender related issues in joint United Nations programming initiatives.

80. The United Nations and its partners have adopted a dual approach in its work in Afghanistan as part of the Strategic Framework process. With regard to humanitarian assistance, a non-confrontational approach, although time consuming, is considered the best strategy. With regard to other issues, the policy makers appeared to be divided. One school of thought, favoured by many United Nations agencies and the gender focal point is that the United Nations should enter into a dialogue with the Taliban authorities and work towards incremental change with minimum confrontation. Other policy makers were of the belief that the United Nations would compromise its principles if it were officially to tolerate the Taliban practices while implementing projects. From a human rights perspective, the Special Rapporteur is of the belief that certain Taliban policies fundamentally compromise the human rights of women and that rights based programming is necessary for the United Nations system to respond effectively to human rights violations. Certain of her interlocutors expressed concern that confrontational statements by foreign organizations would worsen their situation by angering local authorities and producing stricter conditions. However, United Nations complicity in the violation of the rights of Afghan women is also a serious matter. The Special Rapporteur is of the belief that humanitarian assistance requires a different approach, that of constructive engagement in human rights issues. The hardships suffered by the Afghan people require this type of effort.

81. The Special Rapporteur had an interesting discussion with UNICEF about how education has become a problematic issue. When the Taliban closed formal schools in Herat, UNICEF decided not to support formal education until all children could be educated. However, it does support, with both material and technical assistance, non-governmental organizations providing

education at the primary level for approximately 350,000 children in home based schools. In response to the principled position of the United Nations system on equality of access for males and females to education, certain of the Special Rapporteur's interlocutors were of the opinion that Afghan education should start for whoever can receive it, on the basis that it is better to educate only the boys rather than neither the boys nor the girls: "if one does not educate boys, as uneducated men they will be the worst enemies of their sisters and mothers". UNICEF explained that it did not want to institutionalize a parallel system of more complete formal education for boys and limited home based education for girls: it would provide equal education for boys and girls or none at all. The Special Rapporteur commends UNICEF for its principled stand on women's rights as an integral part of the United Nations efforts.

82. Human rights programming was introduced at the beginning of 1999 with the aim of integrating human rights into all assistance activities. It focuses attention on the structural inequalities that contribute to poverty, social exclusion and marginalization. The United Nations approach to human rights in Afghanistan is to address immediate life-saving and life-sustaining needs while simultaneously pursuing measures focused on strategic long-term objectives, namely bringing about conditions essential for the enjoyment and protection of human rights.

83. At the fifth meeting of the Afghanistan Support Group, held on 21 and 22 June 1999 in Stockholm, the participants expressed the view that the needs of the Afghan people justified a sustained commitment to humanitarian assistance, including assistance in addressing the human rights deficit of children and women, in particular female-headed households. The meeting addressed the human rights based programming which aims to advance human rights through assistance activities. The participants welcomed the many examples of constructive local-level cooperation and commitment, and emphasized the opportunities for constructive engagement at the community level.

84. In this connection, the Special Rapporteur was appraised of a successful initiative undertaken by the United Nations Centre for Human Settlements (Habitat), namely, the Community Forum project which was started in 1995. The community forums are sustainable multi-functional programmes that provide economic, educational and social benefits to women and men. The profit-sharing processes cover its operating costs and provides services and employment opportunities for women in the communities. The community forums develop self-reliance and self-help capabilities. The Special Rapporteur encourages donors to consider funding such projects, as it seems to be the most direct way of ensuring capacity-building and sustainability.

85. The Special Rapporteur encourages all United Nations agencies to recruit more female international staff to ensure interaction with both Afghan women and men, as male international staff can only meet with male members of the Afghan community and women's participation is thus excluded. The current United Nations ban on nationals of the United Kingdom and of the United States working in Afghanistan has prevented many well-qualified women from travelling to the country. The Special Rapporteur recommends that the United Nations consider lifting the ban on United Nations staff of United Kingdom or United States nationality as soon as the security situation permits.

86. Lastly, "donor fatigue" is creating major difficulties for all United Nations agencies trying to operate in Pakistan and Afghanistan with diminishing funds. Ten years ago considerable funds were received for projects in Afghanistan. In the past two or three years there has been a drop-off in donations. The Afghan conflict has become less of a priority, in the light of more recent conflicts, such as that in Kosovo. However, the increased humanitarian needs arising from the intensification of the Afghan conflict, particularly in the second half of 1999, have confirmed the importance of the United Nations agencies and the assistance community providing a minimum safety net for the most vulnerable.

VI. RECOMMENDATIONS

87. The Taliban administration should not be given international recognition unless and until it is ready to meet its international obligations with regard to the rights of women. The gross and systematic violation of the rights of women demands firm and consistent international action based on humanitarian intervention. International action should be considered that would compel the Taliban Government to respect a minimum core of women's human rights.

88. The international community must halt the flow of arms into Afghanistan in order to prevent the relentless fighting in the country. The United Nations should impose strict and serious sanctions on countries which continue to support the Taliban and their rivals with arms and money. An international arms embargo should be strictly enforced.

89. Humanitarian aid to all parts of Afghanistan and to the refugees in Pakistan should be increased. The humanitarian crisis in Afghanistan makes the Afghan population one of the most vulnerable in the world. It is important that there be a sustained effort to assist the refugees, the majority of whom are women and children. Such assistance should include: the provision of shelter for women victims of violence, increased food supply, better medical services and health care for all refugees and the provision of primary, secondary and tertiary schooling for all Afghan children. The aid community should take all possible measures to meet what is without doubt one of the world's greatest humanitarian disasters.

90. The provision of non-humanitarian aid to the Taliban controlled areas should cease unless the aid can be delivered without discriminating against women. International standards with regard to the rights of women cannot be compromised for policies of "constructive engagement". Aid agencies must be absolutely convinced that their actions are not consolidating or worsening discrimination against women.

91. The Taliban authorities in Afghanistan and the Rabbani government in Afghanistan should abide by all instruments of international human rights law, including the Convention on the Elimination of All Forms of Discrimination against Women and the Geneva Conventions with regard to the conduct of warfare.

92. All Afghan parties, and in particular the Taliban, should bring to an end without delay all violations of the human rights of women and girls and take urgent measures to ensure: the repeal of all legislative and other measures which discriminate against women; the effective participation of women in civil, cultural, economic, political and social life throughout the country; respect for the right of women to work, and the reintegration of women in their

employment, respect for the right of women and girls to education without discrimination, the reopening of schools and the admission of women and girls to all levels of education, respect for women's right to security of person and that those responsible for physical attacks on women are brought to justice, freedom of movement for women, and their effective and equal access to facilities necessary to protect their right to the highest attainable standard of physical and mental health.

93. Peace and security must be returned to Afghanistan. If the general situation does not improve, the Afghan people will not be able to break away from the pattern of human rights violations which has plagued the territory for decades. All parties must pursue the basic goal of ending the military conflict and establish, through peaceful political negotiations, a broad-based, multi-ethnic and fully representative government which would respect internationally recognized human rights and abandon all policies which are inconsistent with the international human rights instruments to which Afghanistan is a party.

94. Women must be involved in the political and peace process. It is imperative that emerging attitudes within the Afghan community that demand education and health care (especially in the case of returnees from Iran, Pakistan and Europe) are built upon. Afghan women should be empowered to help themselves. Through the provision of training to improve their capacities, they should be assisted to articulate their needs in an international setting, to structure their organizations, and to develop leadership skills and technical knowledge.

95. The Special Rapporteur urges all United Nations agencies working in Afghanistan and Pakistan to initiate and fund programmes targeted at the psychological and social rehabilitation of women.

96. The United Nations and other international organizations should employ more female international staff, in order to have access to both Afghan men and women.

97. International organizations should also employ educated Afghan women for their projects, where possible.

98. The United Nations should lift its travel ban on nationals of the United Kingdom and the United States as soon as the security situation permits. The agreement of the Governments of the United Kingdom and the United States should not be a prerequisite for lifting the ban. When individuals join the United Nations they must be recognized as international civil servants and not as nationals of particular countries.

Annex

SELECTIVE LIST OF PERSONS/ORGANIZATIONS WITH WHOM THE SPECIAL RAPPORTEUR MET DURING HER MISSION

PAKISTAN

Minister for Foreign Affairs

Regional Commissioner for Afghan Refugees, North West Frontier Province

Taliban Ambassador, Islamabad

United Nations Coordinator for Afghanistan

Office of the United Nations High Commissioner for Human Rights

Office of the United Nations Coordinator for Afghanistan

United Nations Special Mission to Afghanistan (UNSMA)

United Nations Children's Fund (UNICEF)

United Nations Centre for Human Settlements (Habitat)

Office of the Coordinator of Humanitarian Assistance to Afghanistan

United Nations Development Programme

United Nations Population Fund (UNFPA)

World Food Programme (WFP)

Agency Coordinating Body for Afghan Relief (ACBAR)

Swedish Committee for Afghanistan (SCA)

Oxfam

Afghan Women's Network

Afghan Women Council

Comprehensive Disabled Afghan's Program

CARE

Revolutionary Afghan Women's Association (RAWA)

Save the Children Fund US

Save the Children Fund UK

GAA

Shuhada Organization

Mercy Corps International

Guardians

Cooperation Centre for Afghanistan (CCA)

Women's Action Forum, Human Rights Commission of Pakistan

AFGHANISTAN

In Faizabad

Acting Governor of Badakhshan province

The representative of President Rabbini

In Kabul

Deputy Minister of Justice

Deputy Minister of Health

Deputy Minister for Education

Head of International Organization Department of the Ministry for Foreign Affairs

Office for the Coordination of Humanitarian Affairs (OCHA)

International Committee of the Red Cross

World Food Programme